

LAST JURY TRIAL ON Pleas Not Guilty In Several Cases.

At 3:15 yesterday afternoon the following named were impaneled as a jury to try Emmett May for embezzlement: R. W. Atkinson, Geo. Dillingham, A. Nelson, W. C. Wilder, Harry Carl, J. Andrade, J. A. Lawelawe, C. F. Merrifield, H. P. Dwyer, H. A. Parmelee, H. P. Kauahi and J. J. Dias.

Judge Robinson excused all other members of the special venire for the rest of the term and continued the trial until 9:30 this morning.

W. S. Fleming assists Attorney-General L. Andrews for the prosecution, and J. J. Dunne appears for the defendant.

This will end criminal trials—indeed, all jury trials—for the present term.

ARRAIGNMENTS.

Judge Robinson opened court yesterday morning at 9 o'clock to hear pleas to indictments which had been reserved.

M. G. Silva, M. S. Freitas and Kaalahu, separately indicted for selling liquor without a license, each pleaded not guilty.

C. F. Chillingworth, former deputy High Sheriff, and Ahoo, a Chinese livery stable owner, indicted for extortion in the second degree, each pleaded not guilty.

When the aged native Hawaiian, Kahilallau, was presented for murder Deputy Attorney General Peters stated that the defendant was without counsel or means to engage legal advice.

Judge Robinson called for a volunteer attorney to defend the accused, but there was no response. A. G. M. Robertson suggested that one of several former judges might properly be assigned as counsel for the defense.

Later he named Judges Perry, Galbraith, Cooper, Edings and Judd. In the meantime Kahilallau said he did not desire counsel, but when informed that it was his right to be professionally defended without cost to himself he cheerfully submitted to the rule.

Judge Robinson suggested the name of Arthur M. Brown, former High Sheriff, who, coming in afterward, accepted the assignment. He had the plea of the defendant reserved until Wednesday.

BRENIQ WILL CONTESTED.

Probate of the will of the late Mrs. Kenahu Brenig, ordered yesterday by Judge De Bolt, is to be contested. Cecil Brown, petitioner, appeared in person and C. F. Peterson for contestants. After the reading of papers and the calling of one witness for the proponent Mr. Peterson read the contest of Becky Kalua et al., as follows:

"Now comes, Becky Kalua, William Hupela and Kahua, heirs and next of kin of Kenahu Brenig, deceased, by C. F. Peterson, their attorney, and enter their appearance herein and contest the probate of the alleged will of said Kenahu Brenig, filed for probate here-in, on the ground that said document is not the will of said deceased, and that said deceased was not competent to make and execute a will."

Upon Mr. Brown's asking the grounds of the contest Mr. Peterson stated that he had no grounds to offer at that stage of the contest, but if it appeared that he should appeal he would do so, when he would file an affidavit stating the grounds for the jury.

There was argument then, but no ruling, and Mr. Brown offered the will in evidence.

The court admitted the will to probate and appointed Cecil Brown executor thereof under a bond of \$20,000. R. W. Shingle, Harry Armitage and P. D. Kellett Jr. were appointed appraisers of the estate.

Mr. Peterson gave notice of appeal from the order of the court to the jury of the next term of court.

Mr. Brown later filed his bond as executor with Mark P. Robinson as surety.

OTHER PROBATE CASES.

The will of Constant Sterling was admitted to probate by Judge Robinson, who appointed J. H. Craig executor under \$2500 bond. W. W. Harris, E. O. White and M. T. Simonton were appointed as appraisers of the estate. A. F. Judd appeared for the petitioner.

Judge Robinson approved the accounts and ordered the discharge of the executors of the estate of the late Dr. Alex Montague Atherton. D. H. Case for petitioners.

William W. Harris was appointed by Judge Robinson administrator of the estate of Fritz J. Wilhelm under bond of \$10,000. F. D. Wicke, H. Armitage and M. T. Simonton were appointed appraisers.

THE ORPHEUM FORECLOSURE.

In the suit of George Tourny vs. the Orpheum Company, Ltd., the defendant has entered a demurrer to the jurisdiction, submitting that there is no jurisdiction existing in a Circuit Judge at Chambers to hear all or any of the matters alleged in the complaint. It also filed a plea not waiving its demurrer, alleging that the plaintiff was not when the complaint was filed and is not now the real owner of the promissory note and mortgage set out in the bill, but was the assignee and trustee of the German Savings and Loan Society. The defendant submits

whether it ought to be obliged to make any other answer, to the complaint until the 11, 12 & 13, shall be made a party, either plaintiff or defendant, to the action. C. W. Ashford is defendant's attorney.

COURT NOTES.

W. C. Achi, counsel for defendant, moves for a jury trial of the trespass case of Lum Kin vs. Emma Keskahiwa.

Plaintiff has filed a bill of exceptions in the suit of Middleitch, trustee, vs. Kawanakana.

A penal summons has been issued to the Pacific Club, a corporation, charging it with selling liquor without a license.

George Paul Duncker, Germany, was naturalized by Federal Judge Dole yesterday.

Several customs appeals from decisions of the Board of General Appraisers at New York were continued until Feb. 13 in the Federal Court.

THE FARMERS TALK SHOP.

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The area for development is stunted. The prices for corn are higher than for ten years and will probably remain so. What had the price of corn to do with the growing of cassava in Hawaii? If the corn price rose starch and glucose could not profitably be made from it. Cassava then would be used. Cassava starch more nearly approached corn starch than any other. Cassava could be grown with little labor. There was plenty of soil, sunshine and air going to waste in Hawaii which could be well utilized for cassava growing.

C. Koelling, the Koolau "castor oil man," stated that he was already greatly interested in cassava growing, and that he was converting his castor oil plantation into a cassava plantation. He stated that whenever a Kona storm came his castor beans were nearly ruined and he was compelled to change to something else not so easily hurt by the elements. Nature seemed against castor bean development at Koolau.

From a very small piece of ground he had already taken 600 pounds of cassava roots. He first cleaned 100 pounds, washed and grated them and extracted 15 per cent of starch. Another lot gave 20 per cent out of a possible 26 per cent. A sample sent to Williams, Diamond & Co. brought back a very favorable report, comparing it to their commercial No. 2 quality. Mr. Koelling has now planted eight acres in cassava roots. The seed was brought from Rice's plantation on Kauai and cost him about \$30 an acre. Planting was done on August 23 last and the plants have grown to an average of about five feet.

Mr. Smith said the roots were excellent in their natural state for homes and cattle and were also good for milch cows. He thought the prepared product of the cassava would sell for about three cents a pound. He stated that Mr. Rice had 300 acres on Kauai planted in cassava for the feeding and fattening of his horses and cattle. Mr. Smith considered the Hawaiian variety of cassava as good as any he had ever heard of. It did not hurt water which had been used for cleaning it, hogs and cattle apparently enjoying water with the starchy taste to it. Mr. Craw said that the Tahitians were starting a movement to grow cassava on a large scale. Mr. Smith said Cassava would grow well at 1000 feet elevation.

ALEXANDER CRAW TALKS.

Mr. Craw, being asked to address the meeting, spoke directly concerning the folly of people of Hawaii sending from \$40,000 to \$50,000 to the coast annually for oranges, lemons and limes. These could just as well be raised in the islands. But trees once started here must be cultivated and not left alone to grow and bear fruit. That was the secret of success in growing citrus fruits. Plant seeds of the Hawaiian oranges and thousands of trees would grow from them. Then cultivate them carefully.

Mr. Smith spoke of an orange grove at Lahaina which was flourishing and was profitable to the owner. There were clumps of trees also in Kona and Hamakua which were doing well.

JUDGE DOLE ON FRUIT.

Judge Dole spoke also of orange and other fruit trees. He had a small place in Pauoa in which orange trees were growing, and although neglected to some extent they were doing fairly well. He thought the King orange of California suitable for the Islands. It was sweet and aromatic.

Secretary Higgins spoke encouragingly in the same matter. Several orange clumps he had seen in Kona were doing very well.

CULTIVATION OF BANANAS.

A paper on the cultivation of bananas, by Charles Furneaux of Hilo, was read by the secretary. The paper had originally been read before the Hilo Agricultural Society. It contained valuable data on the varieties which do well in and about Hilo and gave minute directions as to their cultivation. Mr. Paty, of Hilo, was asked to speak concerning his knowledge of banana cultivation and said he both raised and shipped the fruit. Some of the shipments to California had been financial losses to him. He hoped to get forty cents a bunch in future. He has a hundred Cuban plants which do well. In fact, he spoke strongly in favor of the Lady Finger, Cuban and Chinese varieties. For shipping banana leaves alone were not sufficient as wrappers and grasses should also be used.

AS TO COFFEE.

Mr. Terry, of Oiaia, spoke of the coffee industry. He conceded with others that coffee raising in an about Oiaia had been somewhat of a failure. He had been on Louisson's coffee plantation in Hamakua, where 3,000 bags of coffee were the year's product, the largest crop in the island's his knowledge. He was astounded to find in Waimea almost as fine looking coffee trees as on the Louisson place. At the

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THE ORGANIZATION OF THE GOVERNMENT OF HAWAII

Rev. Hiram Bingham came to Honolulu in 1820. At that time the government was that of an absolute monarchy. All power was in the hands of the king but he consulted his chiefs frequently. There was an informal organization, if it might be described with such inaccurate phrase, called the Aha-Alii. It was a gathering of the high chiefs and later became the foundation of the highest branch of the Legislature known as "The House of Nobles." These chiefs expressed their opinion to the king, sometimes persuading him to remarkable changes—as in the abolition of the onerous system of the tabu—which came from the action of the high chiefs, if not from a formal decision reached in a deliberative assembly.

It is remarkable that within about twenty years after the commencement of Mr. Bingham's labors, there was as complete and as absolute a change in the form of government as followed the war of the Revolution in America which resulted in a "United States" with an inspired Declaration of Independence and Constitution.

In the Hawaiian Islands this change was brought about by instruction in the Science of Government, based chiefly upon the missionary influence of the twenty years preceding. As the principles of Christianity were absorbed by the Hawaiian king and chiefs they desired to understand the laws of the nations which had been developed under those principles.

William Richards, a teacher in the school of Lahalauna, had developed marked ability in imparting knowledge of law to his pupils. After the king had applied to the United States Government for an instructor in the Science of Government and had been "put off" for a long time, Mr. Richards was set apart by the Mission of Hawaii, as the instructor of the king and chiefs. He severed his connection with the mission and entered upon his task with great enthusiasm and wisdom. In less than two years the result was seen in the following remarkable "Declaration of Rights" and "Constitution"—which once issued could never be revoked.

It should be said that it is exceedingly difficult for the stranger or the native residing today in these islands, to even begin to understand the vast amount of material benefit and power in the accession to citizenship brought about at this time practically by the missionaries in behalf of the common people.

This was well illustrated by the words of Kamehameha III concerning his pew in Kawaiahae church when that fine historic building was completed a little over sixty years ago. The king's pew was located on the left hand of the minister as he faced the congregation. A gallery was overhead. No man could sit above the king, no shadow of a common man could fall upon his sacred form. Some of the chiefs declared at once that the gallery must be tabu. But the king said in substance that he did not care who was above him, provided, he had plenty of fresh air from the windows around him, and the gallery did not fall upon him. Twenty-five years before such judgment would have been impossible. The rights of the common people had been recognized.

The Declaration of Rights and Constitution were given freely by the king and his chiefs who later felt very much aggrieved because the people certainly did not appreciate the sacrifice, and instead of gratitude manifested a complaining spirit against the burdens of government they were still compelled to bear. It would be an interesting psychological study to analyze this feeling of the people to ascertain how much was due to an instinctive or inborn demand for the natural rights of man, and how much was due to inborn and cultivated laziness. Nevertheless the fact remains that King Kamehameha III did not like the way the natives responded to the use of the privileges granted by this Declaration and Constitution. The Paradise of the Pacific for December, 1904, will call more particular attention to the lesson which the king tried to teach the people at that time. Through the kindness of Mrs. Mary Hitchcock of Hilo we are permitted to give the "Declaration of Rights" and the First Constitution in full from a rare volume in which they were first published in 1842.

"DECLARATION OF THE RIGHTS OF THE CHIEFS AND PEOPLE OF THE HAWAIIAN ISLANDS."

"God hath made of one blood all nations of men to dwell on the face of the earth in unity and blessedness. God hath also bestowed certain rights alike on all men and on all chiefs and on all people of all lands.

"These are some of the rights which he has given alike to every man and every chief of correct deportment: life, limb, liberty, freedom from oppression, the earnings of his hands, and the production of his mind, not however to those who act in violation of the laws.

"God hath also established governments and rule, for the purpose of peace; but in making laws for the nations, it is by no means proper to enact laws for the protection of the rulers only, without also providing protection for their subjects: neither is it proper to enact laws to enrich the chiefs only, without regard to enriching their subjects also, and hereafter there shall by no means be any laws enacted, which are at variance with what is above expressed, neither shall any tax be assessed, nor any service or labor required of any man, in a manner which is at variance with the above sentiments.

"The above sentiments are hereby published for the purpose of protecting alike both the people and the chiefs of all these islands, while they maintain

a correct deportment, that no chief may be able to oppress any subject, but that chiefs and people may enjoy the same protection under one and the same law. Protection is hereby secured to the persons of all the people together with their lands, their building lots and all their property while they conform to the laws of the kingdom. And nothing whatever shall be taken from any individual except by express provision of the laws. Whatever chief shall act perversely in violation of this constitution shall no longer remain a chief of the Hawaiian Islands, and the same shall be true of the governors, officers, and all land agents.

"But if any one who is deposed should change his course, and regulate his conduct by law, it shall then be in the power of the chiefs to reinstate him in the place he occupied previous to his being deposed."

This Declaration received the signature of Kamehameha III June 7, 1839. The Constitution which follows was proclaimed in October, 1840, and both were published together as one document.

CONSTITUTION OF THE HAWAIIAN ISLANDS.

"It is our design to regulate our kingdom according to the above principles and thus seek the greatest prosperity both of all the chiefs and all the people of these Hawaiian Islands. But we are aware that we cannot ourselves alone accomplish such an object. God must be our aid for it is His providence alone to give perfect protection and prosperity. Wherefore we first present our supplication to Him, that He will guide us to right measures and sustain us in our work."

It is therefore our fixed decree, 1. That no law shall be enacted which is at variance with the word of the Lord Jehovah, or at variance with the general spirit of His word. All laws of the islands shall be in consistency with the general spirit of God's law.

2. All men of every religion shall be protected in worshipping Jehovah and serving Him, according to their own understanding, but no man shall ever be punished for neglect of God unless he injures his neighbor or brings evil on the kingdom.

3. The law shall give redress to every man who is injured by another without a fault of his own, and shall protect all men while they conduct properly, and shall punish all men who commit crime against the kingdom or against individuals, and no unequal law shall be passed for the benefit of one to the injury of another.

4. No man shall be punished unless his crime be first made manifest neither shall he be punished unless he be first brought to trial in the presence of his accusers and they have met face to face and the trial having been conducted according to law and the crime made manifest in this presence then punishment may be inflicted.

5. No man or chief shall be permitted to sit as judge or act as a jury to try his particular friend (or enemy) or one who is especially connected with him. Wherefore if any man be condemned or acquitted, and it shall afterwards be made to appear that some one who tried him acted with partiality for the purpose of favoring his friend (or injuring his enemy) or for the purpose of enriching himself then there shall be a new trial allowed before those who are impartial.

EXPOSITION OF THE PRINCIPLES ON WHICH THE PRESENT DYNASTY IS FOUNDED.

The origin of the present government and system of polity is as follows: Kamehameha I was the founder of the kingdom and to him belonged all the land from one end of the islands to the other though it was not his own private property. It belonged to the chiefs and people in common of whom Kamehameha I was the head and had the management of the landed property. Wherefore there was not formerly, and is not now any person who could or can convey away the smallest portion of land without the consent of the one who had or has the direction of the kingdom.

These are the persons who have had the direction of it from that time down: Kamehameha I, Kaahumanu I and at the present time Kamehameha.

These persons have had the direction of the kingdom down to the present time, and all documents written by them, and no others are the documents of the kingdom.

The kingdom is permanently confirmed to Kamehameha III and his heirs, and his heir shall be the person whom he and the chiefs shall appoint during his life time, but should there be no appointment the decision shall rest with the chiefs and House of Representatives.

PREROGATIVES OF THE KING.

The prerogatives of the king are as follows: He is the sovereign of all the people and all the chiefs. The kingdom is his. He shall have the direction of the army and all the implements of war of the kingdom. He also shall have the direction of the government property, the poll tax, the land tax, the three days monthly labor, though in conformity to the laws. He shall also retain his own private lands, and lands forfeited for the non-payment of taxes shall revert to him.

He shall be the judge of the Supreme Court and it shall be his duty to execute the laws of the land.

Also all decrees and treaties with other countries all however in accordance with the laws.

It shall be his prerogative to form treaties with the rulers of all other

kingdoms, also to receive ministers sent by other countries, and he shall have power to confirm agreements with them.

He shall have power to make war in time of emergency, when the chiefs cannot be assembled, and he shall be the Commander in Chief. He shall also have power to transact all important business of the kingdom, which is not by law assigned to others.

RESPECTING THE PREMIER OF THE KINGDOM.

It shall be the duty of the king to appoint some chief of rank and ability to be his particular minister whose title shall be "The Premier of the Kingdom." His office and business shall be the same as that of Kaahumanu I. and Kaahumanu II. For even in the time of Kamehameha I. life and death, condemnation and acquittal were in the hands of Kaahumanu. When Kamehameha I. died, his will was "The Kingdom is Liholilo's and Kaahumanu is his Minister." That important feature of government originated by Kamehameha I. shall be perpetuated in these Hawaiian Islands, but shall always be in subservience to the law.

The following are the duties of the Premier: All business connected with the interests of the kingdom, which the King wishes to transact, shall be done by the Premier under the authority of the King. All documents and business of the kingdom executed by the Premier shall be considered as executed by the King's authority. All Government property shall be reported to him (or her) and he (or she) shall make it over to the King.

The Premier shall be the King's special counselor in the great business of the kingdom.

The King shall not act without the knowledge of the Premier nor shall the Premier act without the knowledge of the King, and the veto of the King on the acts of the Premier shall arrest the business. All important business of the kingdom which the King chooses to transact in person he may do it, but without the approbation of the Premier.

GOVERNORS.

There shall be four governors over these Hawaiian Islands—one for Hawaii, one for Maui and the Islands adjacent, one for Oahu and one for Kauai and the adjacent islands. All the governors from Hawaii to Kauai shall be subject to the King.

The prerogatives of the governors and their duties shall be as follows: Each governor shall have the general direction of the several tax gatherers of his island and shall support them in the execution of all their orders which he considers have been properly given, but shall pursue a course according to law and not according to his own private views. He also shall preside over all the judges of his island and shall see their sentences executed as above. He shall also appoint the judges and give them their certificates of office.

All the governors from Hawaii to Kauai shall be subject not only to the King but also to the Premier.

The governor shall be the superior over his particular island or islands. He shall have charge of the munitions of war. Under the direction of the King, however, and the Premier. He shall have charge of the forts, the soldiery, the arms and all the implements of war. He shall receive the Government dues and shall deliver over the same to the Premier.

All important decisions rest with him in times of emergency unless the King or Premier be present. He shall have charge of all the King's business on the island, the taxation, new improvements to be extended and plans for the increase of wealth, and all officers shall be subject to him. He shall also have power to decide all questions and transact all island business which is not by law assigned to others.

HOUSE OF NOBLES.

At the present period these are the persons who shall sit in the government councils—Kamehameha III, Kekaula-ohi, Hoapiliwahine, Kuakini, Kekaula-ohi, Kahakili, Paki, Konia, Kiohokalo, Lelelelelele, Kekuanono, Keli-ahonui, Kanahua, Keoni II, Keoni Ana, and Haailio—sixteen chiefs. Should any other person be received into the council, it shall be made known by law. These persons shall have part in the councils of the kingdom. No law of the nation shall be passed without their consent. They shall act in the following manner. They shall assemble annually for the purpose of seeking the welfare of the nation, and establishing laws for the kingdom. Their meeting shall commence in April, at such day and place as the king shall appoint.

It shall also be proper for the king to consult the above persons respecting all the great concerns of the kingdom, in order to promote unanimity and secure the greatest good. They shall moreover transact such other business as the king shall commit to them.

They shall retain their own appropriate lands, whether districts, or plantations, or whatever divisions they may be, and they may conduct the business on said lands at their discretion, but not at variance with the laws of the kingdom.

RESPECTING THE REPRESENTATIVE BODY.

There shall be annually chosen certain persons to sit in council with the nobles and establish laws for the nation. They shall be chosen according to their wish, from Hawaii, Maui, Oahu and Kauai. The law shall decide the form of choosing them and also the number to be chosen. This representative body shall have a voice in the business of the kingdom. No law shall be passed without the approbation of the majority of them.

RESPECTING THE MEETING OF THE LEGISLATIVE BODY.

There shall be an annual meeting as stated above, but if the rulers think it desirable to meet again they may do it at their discretion. When they assemble the nobles shall meet by themselves and the representative body by itself, though at such time as they shall think it necessary to consult together they may unite at their discretion.

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WARNING TO JAPANESE

Consul Saito Does Not Want Neutrality of Islands Violated.

Adropos of the reports that have recently come down from Kauai of the drilling of Japanese reserve troops with arms at Lihue, the Japanese Consul, Miki Saito, has addressed the following letter to his compatriots in the islands:

To the Japanese Residents in Hawaii: Information has reached me lately that certain Japanese laborers in Lihue, Kauai, have gathered together for the purpose of military drill, and the Honolulu papers have commented upon the supposed facts, saying that, if true, it might raise the question as to the preservation of neutrality in the islands.

Although I am inclined to believe that the reported gathering of the Japanese in Lihue is nothing more than for the simple purpose of common boyish pleasure after their day's work, and I do not believe that there still remain any number of reservists of the Japanese army about to be ordered to their colors, yet I think the following notice may serve to call your attention to the fact that our subjects in the islands should always remain quiet, and at any rate we ought not to create any apparent disturbance that could be commented upon during our sojourn in a neutral state.

As you all know, the mother country, Japan, is now engaged in a life-and-death struggle with one of the greatest European Powers, and as we all believe in a most just and righteous cause, it is the desire of the Home Government that all Japanese, especially those Japanese living in a foreign, neutral and friendly state, so to act that neither by word nor by deed as to excite any comment injurious to the sympathy we have in many neutral countries, and more especially in the United States.

I hereby request, with all the earnestness in my power, that the Japanese in this country may be orderly and quiet in all things. It is especially desirable at this time that laborers on the plantations should be reasonable, diligent and obedient to the proper authorities, and in no case to strike or be disorderly in any sense.

I would especially all to mind that the generous people of Hawaii have largely contributed to the funds of the Red Cross Society of Japan, which does so noble and charitable work to the suffering soldiers of Japan and to others in need.

Again I must impress upon you and upon your patriotism and love for your native country so to act that you will be an honor and not a disgrace to Japan.

Issued this twelfth day of December, nineteen hundred and four, by

MIKI SAITO,

H. I. Japanese Majesty's Consul General.

Following the Advertiser's publication of the story from Kauai, Assistant Attorney-General Fleming yesterday gave Governor Carter the gist of the neutrality laws of the United States as bearing upon the matter. The laws, in effect, are, of course, precisely as they were quoted in the article in the Advertiser.

It is not probable that any action will be taken, at least until there has been a thorough investigation by the Territorial authorities. And even if investigation should disclose a breach of neutrality, which is by no means certain from the reading of the law, it is doubtful whether it would be up to the Territorial authorities to act. It may be a matter for the Federal people and it may be that no action should be taken by anybody until complaint is made on behalf of Russia. Sheriff Coney of Kauai, however, will get all the facts.

GOING TO BIG ISLAND ON TOUR OF INSPECTION

One of the passengers who will leave on the Kinau today will be Assistant Superintendent of Public Works Howland.

"Mr. Howland will be a passenger for Hilo," said Superintendent of Public Works Holloway yesterday. "He goes for the regular official tour of the island of Hawaii, to examine the roads and bridges, look at the works of public character in progress and get a general idea of the needs and conditions there. He will stay over one boat, returning here on the 24th. We generally aim to get over the islands on these tours of inspection every three or four weeks. That keeps the office in touch with the work done—and needed."

SPRAINED ANKLE, STIFF NECK, LAME SHOULDER.

These are three common ailments for which Chamberlain's Pain Balm is especially valuable. If promptly applied it will save you time, money and suffering when troubled with any one of these ailments. For sale by all Dealers and Druggists. Benson Smith & Co., Ltd., Agents for Hawaii.